

**Bayer CropScience**

Date April 11, 2003  
To Examiner Neil S. Levy  
U.S. Patent and Trademark Office  
Fax 703-308-4556 Pages 3  
From Raymond J. Harmuth  
Fax 412-777-8363 Tel. 412-777-8366  
cc: \_\_\_\_\_  
Re: Letter

**FAX RECEIVED**

APR 14 2003

**GROUP 1600****FAX****OFFICIAL**

Bayer CropScience LP  
100 Bayer Road  
Pittsburgh, PA 15205-9741

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**Bayer CropScience**

April 11, 2003

**VIA FAX 703-308-4556**Writer's Direct Dial No.  
412-777-8366**Attention: Supervisor Patent Examiner Jose Dees**  
United States Patent and Trademark Office  
Washington, D.C. 20231**RE: U.S. Patent Application Serial No.: 09/155,849**  
**Filed: October 2, 1998**  
**Entitled: New Insecticide Suspension Concentrates**  
**Applicants' Reference No.: Mo-4857/LeA 31,690**Bayer CropScience  
100 Bayer Road  
Pittsburgh, PA 15205-9741  
Phone: 412 777-2000

Dear SPE Dees:

The above-referenced case was filed nearly five years ago now. Its prosecution included an appeal to the Board of Patent Appeals and Interference's, the Notice of Appeal having been filed February 23, 2001.

On December 16, 2002, Examiner Neil Levy issued an Office Action which reopened prosecution of the case and withdrew the finality of the final rejection dated April 18, 2002.

This letter might sound as though it is leading up to a complaint, but in fact, it is just the opposite. Applicants wanted to bring to your attention the actions of Examiner Levy because his analytically thoughtful approach in reopening this case may well avoid an unnecessary appeal. His actions might result in avoiding a needless waste of the PTO resources and time and of Applicants and assignee corporation's limited resources and time, and may have quite efficiently advanced prosecution of this case.

Further, to his credit, Examiner Levy agreed to conduct a telephonic interview of this case on April 10, 2003 with the undersigned and Dr. Siegfried Grimm, assignee Bayer AG's German Patent Counsel of Leverkusen, Germany. Examiner Levy was quite courteous during the interview, giving Applicants ample opportunity to discuss and clarify issues in the case.

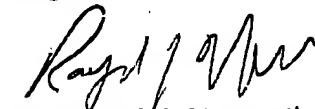
Attention: Supervisor Jose Dees  
United States Patent and Trademark Office  
RE: Mo-4857/LeA 31,690  
April 11, 2003

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While Examiner Levy obviously could not commit to allowance of the case on the spot during the telephonic interview, and as Applicants did not want that in any event because Applicants wanted to present certain amended claims to the Examiner for his consideration, Applicants ended that telephonic interview with a belief that prosecution of the case has been greatly advanced and that several points were well clarified by both the Examiner and the Applicant's representatives.

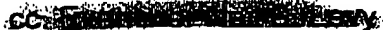
Applicants simply wanted to point out to you how helpful and useful Examiner Levy's decision to reopen prosecution of this case has been, and whether or not this case is allowed, to bring his commendable actions to your attention.

Regards,



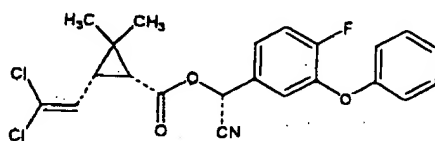
Raymond J. Harmuth  
Patent Counsel  
Patents and Licensing

kgb/rjh068ltr



# Cyfluthrin

Search Monographs



(1R,3R,αR)-form

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MERCK

CambridgeSoft

Monograph Number: 2785

Title: Cyfluthrin

CAS Registry Number: 68359-37-5

CAS Name: 3-(2,2-Dichlorovinyl)-2,2-dimethylcyclopropanecarboxylic acid cyano(4-fluoro-3-phenoxyphenyl)methyl ester

Additional Names: (R,S)-α-cyano-4-fluoro-3-phenoxybenzyl-(1R,S)-cis,trans-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate; cyfoxylate

Manufacturers' Codes: FCR-1272; BAY FCR 1272

Trademarks: Baythroid (Bayer); Tempo (Bayer)

Molecular Formula: C<sub>22</sub>H<sub>18</sub>Cl<sub>2</sub>FNO<sub>3</sub>

Molecular Weight: 434.29

Percent Composition: C 60.84%, H 4.18%, Cl 16.33%, F 4.37%, N 3.23%, O 11.05%

Literature References: Synthetic pyrethroid insecticide. Commercial product is mixture of 8 isomers, the (1R)-isomers primarily responsible for the bioactivity. Prepn of racemic mixture: R. Fuchs *et al.*, DE 2709264; *idem*, US 4218469 (1978, 1980 both to Bayer AG). Prepn of stereoisomers: *idem*, EP 22970; *idem*, US 4287208 (both 1981 to Bayer AG). Chiral phase HPLC separation of enantiomers: R. A. Chapman, *J. Chromatog.* 258, 175 (1983). Metabolism by cell suspension cultures: U. Preiss *et al.*, *Chemosphere* 13, 861 (1984). Field evaluation against cotton insect pests: J. A. Durant, *J. Agric. Entomol.* 1, 201 (1984). Review of chemistry, bioactivity and field studies: I. Hammann, R. Fuchs, *Pflanzenschutz-Nachr.* 34, 121-151 (1981). Review of formulations and potential uses: W. Behrenz *et al.*, *ibid.* 36, 127-176 (1983).

Properties: Yellowish-brown oil,  $n_D^{25}$  1.5511. Soly in water (20°):  $1-2 \times 10^{-6}$  g/l. LD<sub>50</sub> in male, female rats, male, female mice (mg/kg): 500-800, 1200, 300, 600 orally in Lutrol (Behrenz). LC<sub>50</sub> (96 hr) in rainbow trout: 0.0006 mg/l (Hammann).

Toxicity data: LD<sub>50</sub> in male, female rats, male, female mice (mg/kg): 500-800, 1200, 300, 600 orally in Lutrol (Behrenz); LC<sub>50</sub> (96 hr) in rainbow trout: 0.0006 mg/l (Hammann)

Derivative Type: (1R,3R,αR)-Form

CAS Registry Number: 85649-12-3

Properties: Colorless oil.  $[\alpha]_D^{20}$  -15.0° (c = 1.0 in CHCl<sub>3</sub>).

Optical Rotation:  $[\alpha]_D^{20}$  -15.0° (c = 1.0 in CHCl<sub>3</sub>)

Derivative Type: (1R,3R,αS)-Form

CAS Registry Number: 85649-15-6

Properties: Crystals, mp 50-52°.  $[\alpha]_D^{20}$  +24.5° (c = 1.0 in CHCl<sub>3</sub>).

Melting point: mp 50-52°

Optical Rotation:  $[\alpha]_D^{20}$  +24.5° (c = 1.0 in CHCl<sub>3</sub>)

Derivative Type: (1R,3S,αS)-Form

CAS Registry Number: 85649-19-0

Properties: Crystals from *m*-hexane mp 68-69°.  $[\alpha]_D^{20}$  -2.1° (c = 1.0 in CHCl<sub>3</sub>).

Melting point: mp 68-69°

Optical Rotation:  $[\alpha]_D^{20}$  -2.1° (c = 1.0 in CHCl<sub>3</sub>)

ATTACHMENT A

\*\* TOTAL PAGE.17 \*\*